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June 15, 2018

The Honorable Robert Taub, Chairman  
Postal Regulatory Commission  
901 New York Ave., NW. Suite 200  
Washington, DC 20268

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POSTAL REGULATORY  
COMMISSION  
OFFICE OF THE SECRETARY

**Sec. 407 Public Comment Re: Docket No. IM2018-1**

Dear Chairman Taub,

Do you know which product can save the USA over \$30 a year per household in energy savings? Answer; new Range Kleen drip bowls when consumers replace their worn drip bowls with us!

Our company is a family owned, Ohio based manufacturer of a wide variety of goods, many of which are "Made in the USA" right here in Lima, OH. This letter is submitted for inclusion in the Section 407 Proceeding under Docket No. IM2018-1, with the intent of sharing Range Kleen's recent awareness of other's experiences in dealing with terminal dues inequities resulting from Universal Postal Union (UPU) proposals. The intent of this letter is to provide the Postal Regulatory Commission with a real-world example of how local US businesses are being adversely impacted by terminal dues inequities, as well as articulating why we believe the continuation of these terminal dues classifications are inconsistent with the standards and criteria set forth under 39 U.S.C. 3622.

Background

In October of 2017 several fellow IHA (International Housewares Association) members such as Dexas and MightyMug noticed a sharp increase in the number of foreign infringing goods being offered on websites like Ebay, Alibaba and Amazon. Most firms sell housewares and related products, many of which are protected by design patents to ward off potential infringers. Until recently most did not have much trouble keeping infringing goods at bay, as most infringers were usually domestic companies that could be sued in Federal District Court. Now we are seeing a new type of infringer – individual sellers from China offering direct sales to consumers in the US via Amazon, Alibaba and Ebay. Where once the cost of shipping would have made such sales financially unviable, sellers in China have discovered that they can sell and ship single unit products at virtually no cost. This includes not only legitimate products but also counterfeit and infringing goods. We recently discovered that this has been in large part due to the USPS charging absurdly low package shipping rates for foreign competitors, primarily from China. This terminal dues inequity issue is a problem that has dramatically impacted not only our business, but virtually every US business that competes with foreign e-commerce.

Even when websites like Amazon and Ebay comply with our request to remove infringing products the listings are often reposted the very next day. Seeing direct legal action against sellers in China is even less feasible since the products are often being sold by dozens or even hundreds of different foreign individuals and small businesses, where the cost of stopping each one of them would far outweigh any benefit we might gain. Worst of all, taking legal action against large websites offering these products (Amazon, Ebay, etc.) is equally futile due to a recent 9<sup>th</sup> Circuit Court decision which essentially grants these sites legal immunity from the actions of their own sellers. See: *Milo & Gabby LLC v. Amazon.com, Inc.*, Case No. 2016-1290 (Fed. Cir. May 23, 2017) But even in cases where intellectual property infringement is not a problem, our business still suffers from the unfair terminal dues advantage that our competitors in China enjoy. For some product categories like ours, saving a few dollars on shipping is an *enormous* competitive advantage that can make all the difference between turning a profit and going out of business. Unfortunately that advantage is being used *against* US businesses like ours to great effect by our foreign competitors.



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Where legal and financial barriers used to keep these foreign merchants from unfairly competing in the US market, those barriers have now been lifted. The result is a virtual tsunami of infringing goods flooding into the US market at virtually no cost or risk of legal liability, with potentially devastating consequences to US businesses, both locally and nation-wide.

Current UPU Classifications are Inconsistent with Sec. 3622 Standards

Range Kleen asserts that the current UPU terminal dues classifications are wholly inconsistent with the standards and criteria set forth in under 39 U.S.C. 3622. Specifically, Sec. 3622(c)(10)(B) which states that the PRC shall take into account "the desirability of special classifications for both postal users and the Postal Service in accordance with the policies of this title, including agreements between the Postal Service and postal users, when available on public and reasonable terms to similar situated mailers, that- **do not cause unreasonable harm to the marketplace.**" (emphasis added). Range Kleen asserts that the current terminal dues structure unfairly subsidizes foreign competitors and is putting US businesses at an extreme disadvantage. We would therefore assert that such harm is not only unreasonable but potentially devastating and irreparable. If the damage sustained by our own business is extrapolated across the entire US e-commerce market the amount of lost sales due to terminal dues inequities could easily reach into tens of billions of dollars per year, if not more.

Accordingly, we respectfully request that the Postal Regulatory Commission advise the Secretary of State to *reject* any UPU proposal which gives any foreign business entity a competitive advantage over US businesses per Sec. 3622(c)(10)(B). We further state that if the UPU is unwilling to propose a terminal dues structure that allows for a level commercial playing field, then it may be in our nation's best interest to consider leaving the UPU and establishing bi-lateral postal agreements that better serve our national economic interests.

We Really Care,

A handwritten signature in black ink, appearing to read "PA O'Connor", with a long, sweeping horizontal line extending to the right.

Patrick O'Connor  
President  
[patricko@rangekleen.com](mailto:patricko@rangekleen.com)

CC: Pam Sederholm, IHA DC [pamela@sederholmpa.com](mailto:pamela@sederholmpa.com)